

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CORAZON GAERLAN REYES,

Plaintiff,

v.

CREDIGY RECEIVABLES, INC., ET AL.,

Defendants.

Case No.: 5:12-CV-05811-EJD

**ORDER DENYING AS MOOT
PLAINTIFF'S MOTION TO STRIKE****[Re: Docket No. 26]**

Presently before the court in this debt collection action is Plaintiff Corazon Gaerlan Reyes' ("Plaintiff") Motion to Strike Affirmative Defenses in Credigy Receivables, Inc. and Credigy Services Corp.'s (collectively, "Credigy") Answer. Dkt. No. 26. For the following reasons, the court DENIES Plaintiff's motion as MOOT.

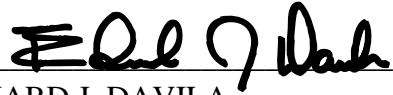
Plaintiff filed this action against Defendants Credigy, Phoenix Law Group Corp., Red Hill Law Group, P.C., Jay Michael Tenenbaum, Ian Nathan Willens, Ronald R. Roundy, and Michael Charles Brkich on November 13, 2012, raising claims under the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. and California's Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788-1788.33, as well as claims for malicious prosecution and punitive damages. Dkt No. 1. Credigy filed an Answer to the Complaint on December 10, 2012 (Dkt. No. 22) and the remaining defendants filed their respective answers in early January (Dkt. Nos. 27 and

28). Plaintiff moved to strike the affirmative defenses in both Credigy and Red Hill Law Group's Answers (Dkt. Nos. 26 and 31) and the court took the matter under submission on March 18, 2013 (Dkt. No. 59).

While these motions to strike have been pending, the parties agreed to dismiss Red Hill Law Group from this case with prejudice (Dkt. No. 67) and Plaintiff filed a First Amended Complaint ("FAC") (Dkt. No. 74). The FAC removes Red Hill Law Group but adds Gryphon Solutions, LLC and The Brikich Gabriel Group as named defendants. See Dkt. No. 74. This FAC "supersedes the original, the latter being treated thereafter as non-existent." Lacey v. Maricopa Cty., 693 F.3d 896, 925 (9th Cir. 2012) (citations omitted). As such, Defendants' respective Answers to the original Complaint are moot, as are any motions pertaining to the original Complaint or any Answers to it. Accordingly, Plaintiff's Motion to Strike (Dkt. No. 26) is DENIED as MOOT. Unless otherwise stipulated, Credigy is required to file an Answer to the FAC within the time period set forth in Federal Rules of Civil Procedure 15(a)(3).

IT IS SO ORDERED

Dated: June 20, 2013


EDWARD J. DAVILA
United States District Judge